

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 :
ORCO INC., : FINAL DECISION AND ORDER
RESPONDENT. : LS07091010BAC
 :

Division of Enforcement Case File Number 07 BAC 012

The parties to this action for the purposes of Section 227.53 of the Wisconsin statutes are:

ORCO Inc.
1350 Royal Mile Road
Oconomowoc, Wisconsin 53066

Barbering and Cosmetology Examining Board
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. ORCO Inc., is duly licensed as a manicuring establishment in the state of Wisconsin (license #71-2679). This license was first granted on May 2, 2005, and is current through June 30, 2007. The last address reported for ORCO Inc., is 1350 Royal Mile Road, Oconomowoc, Wisconsin 53066.

2. ORCO Inc., is also duly licensed as an aesthetics establishment in the state of Wisconsin (license #69-343). This license was first granted on April 25, 2003, and is current through June 30, 2007.

3. ORCO Inc., uses the business name of O-Spa. O-Spa is also located at 1350 Royal Mile Road, Oconomowoc, Wisconsin 53066.

4. An inspection of O-Spa by Kelley Sankbeil of the Department of Regulation and Licensing on November 8, 2006, found that practitioner's licenses and the establishment licenses were not posted, that nail files and nail buffers were being reused, that trash cans were not covered, that poisonous substances were stored in an unlocked cabinet in the women's bathroom and that the Pedi-Spas were not cleaned with a product that was a tuberculocidal.

5. Terri Lindemann, Spa Manager, informed Investigator Sankbeil that unlicensed persons were performing herbal body wraps.

6. In resolution of this matter, ORCO Inc., consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. Sec. 454.15.

2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached stipulation pursuant to Wis. Stat. Sec. 227.44(5).

3. By conduct referred to the above Findings of Fact, ORCO Inc., has violated:

1. Wis. Stat. sec. 454.01(2). “Aesthetics” means, for compensation, caring for or beautifying the skin of the human body, including but not limited to cleaning, applying cosmetics, oils, lotion, clay, creams, antiseptics, powders, or tonics to or massaging, stimulating, wrapping or exercising the skin of the human body.
2. Wis. Stat. sec., 454.04(1)(b). No person may engage in aesthetics unless the person has received training in the areas of service provided and holds a current aesthetician license, barbering or cosmetologist license, manager license, temporary permit or training permit issued by the examining board or is an apprentice under s. 454.10 or a student in an aesthetics or barbering or cosmetology course of instruction.
3. Wis. Stat. sec. 454.06(7). The examining board shall furnish a certificate to each licensee, certifying that the holder is licensed to practice barbering or cosmetology, aesthetics, electrology or manicuring or is a licensed manger. The licensee shall post the certificate in a conspicuous space in the licensed establishment.
4. Wis. Stat. sec. 454.08(8). The examining board shall furnish a certificate to the owner of a licensed establishment, certifying that the establishment is licensed by the examining board. The owner shall post the certificate in a conspicuous place in the establishment.
5. Wis. Stat. sec. 454.15(2)(i). Violated this chapter or any rule promulgated under this chapter.
6. Wis. Admin. Code § BC 2.04(1). Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
7. Wis. Admin. Code § BC 2.06. The owner of any licensed establishment shall be responsible for compliance with ch. 454, Stats., and chs. BC 2,3 and 4.
8. Wis. Admin. Code § BC 2.08(a). Licensees shall be responsible for compliance with the sanitation and safety precautions contained in ch. BC 4.
9. Wis. Admin. Code § BC 2.08(b). Licensees shall be responsible for their professional practice, conduct and compliance with ch. BC 2.
10. Wis. Admin. Code § BC 3.01(6). Establishments shall provide safe and secure areas for storing, cleaning and disinfecting equipment. Poisonous substances stored in public areas shall be locked in a cabinet or

closet.

11. Wis. Admin. Code § BC 3.01(13). The establishment license shall be posted in the establishment.
12. Wis. Admin. Code § BC 4.01(5). Shampoo bowls and basins shall be drained after each use and kept in a sanitary and safe condition.
13. Wis. Admin. Code § BC 4.01(1). All areas of an establishment and the equipment, tools and implements for services shall be maintained in a clean, sanitary and safe condition.
14. Wis. Admin. Code § BC 4.10(4). Manicure instruments that can't be cleaned and disinfected or sterilized shall be disposed of following each use.

ORDER

NOW, THEREFORE, **IT IS HEREBY ORDERED** that ORCO Inc., pay to the Department of Regulation and Licensing a forfeiture of EIGHT HUNDRED dollars (\$800.00). ORCO Inc., shall also pay costs in the amount of THREE HUNDRED dollars (\$300.00) in this matter. All payments shall be submitted within 120 days from the date of this order. Payment shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935
608-261-7904

IT IS FURTHER ORDERED that in the event ORCO Inc., fails to timely submit any payment of the forfeiture and costs as set forth above, the manicuring establishment license of ORCO Inc., (license #71-2679) and the aesthetics establishment license of ORCO Inc., (license #69-343) **SHALL BE SUSPENDED**, without further notice or hearing until ORCO Inc., has complied with the terms of this Order.

This Order shall become effective upon the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A member of the Board

9/10/07
Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	
ORCO INC.,	:	STIPULATION
RESPONDENT.	:	LS# _____BAC
	:	

Division of Enforcement Case File Number 07 BAC 012

- It is hereby stipulated between ORCO Inc., and Claudia Berry Miran, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:
1. This Stipulation is entered into as a result of a complaint by the Division of Enforcement (07 BAC 012). ORCO Inc., consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
 2. ORCO Inc., understands that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
 3. ORCO Inc., is aware of their right to seek legal representation and they have done so.
 4. ORCO Inc., agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. ORCO Inc., waives all rights to any appeal of the attached order, if adopted in the form as attached.
 5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
 6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Barbering and Cosmetology Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of ORCO Inc., or their attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
 7. ORCO Inc., is informed that should the Board adopt this stipulation, the Board’s Final Decision and Order is a public record and will be published in accordance with standard Departmental policy.
 8. The Division of Enforcement joins ORCO Inc., in recommending the Barbering and Cosmetology Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

ORCO Inc.
Respondent
1350 Royal Mile Road
Oconomowoc, Wisconsin 53066
License Numbers 69-343 and 71-2679

Date

Claudia Berry Miran
Attorney
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

Date